

FILED

CLERK, U.S. DISTRICT COURT

JS-6

MARCH 13 2017

CENTRAL DISTRICT OF CALIFORNIA

BY: _____ vdr _____ DEPUTY

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Attorneys for Defendant

NPL CONSTRUCTION CO.

UNITED STATES DISTRICT COURT**CENTRAL DISTRICT OF CALIFORNIA****EASTERN DIVISION - RIVERSIDE**

JOSUE ALFARO, an individual, on
behalf of himself and others similarly
situated,

Plaintiff,

v.

NPL CONSTRUCTION CO.; and
DOES 1 thru 50, inclusive,

Defendants.

Case No. 5:17-cv-00294-FMO (KKx)

Hon. Fernando M. Olguin
Courtroom 6D

CLASS ACTION**JOINT STIPULATION TO
REMAND; [PROPOSED] ORDER**

FAC Filed: January 12, 2017
Removal: February 16, 2017
Trial Date: Not Assigned

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IRVINE, CA 92612-4414

1 IT IS HEREBY STIPULATED AND AGREED, by and between plaintiff
2 Josue Alfaro ("Plaintiff") and defendant NPL Construction Co. ("NPL"), through
3 their respective counsel of record, as follows:

4 1. Plaintiff brought this action against NPL in San Bernardino Superior
5 Court (case number CIVDS1616353) on October 11, 2016 seeking damages for
6 failure to pay wages and/or overtime, failure to provide itemized wage statements,
7 failure to pay wages timely upon termination, and unfair business practices.

8 2. Plaintiff then filed a First Amended Complaint on January 12, 2017
9 adding a claim for penalties under the Private Attorneys General Act (PAGA).

10 3. During a conference between the parties' counsel on January 17, 2017,
11 Plaintiff's counsel indicated that, with respect to Plaintiff's first cause of action for
12 unpaid wages and overtime, the putative class may have claims for unpaid travel
13 time in addition to claims for off-the-clock work at NPL's central locations.

14 4. Based on this information, NPL conducted its own due diligence and
15 determined that the claims asserted in the First Amended Complaint satisfied the
16 amount-in-controversy requirement under the Class Action Fairness Act (CAFA).
17 NPL then removed the action to the U.S. District Court, Central District of
18 California on February 16, 2017 on the basis of diversity of citizenship.

19 5. The parties then met and conferred over Plaintiff's intent to file a
20 motion to remand. Plaintiff's counsel maintains that the notice of removal was
21 untimely and that the First Amended Complaint does not satisfy the amount in
22 controversy requirement. Based on these conversations and the Court's March 7,
23 2017 Order (dkt 18), the parties have stipulated that the action may be remanded. In
24 doing so, Plaintiff reserves all rights to add further claims on behalf of the putative
25 class, and NPL reserves all rights to remove the action under CAFA based on
26 further developments in the action.

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28 //

1 NOW, THEREFORE, the parties hereby agree and stipulate as follows:

2 1. This action shall be remanded to the Superior Court of the State of
3 California, County of San Bernardino forthwith;

4 2. Each party shall bear its own attorneys' fees and costs incurred in
5 connection with the removal and remand of this action.

6 IT IS SO STIPULATED.

7
8 Dated: March 10, 2017

KINGSLEY & KINGSLEY, APC

Eric B. Kingsley, Esq.

Liane Katzenstein Ly, Esq.

By: /s/ Liane Katzenstein Ly

Liane Katzenstein Ly

Attorneys for Plaintiff

JOSUE ALFARO

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14
15 Dated: March 10, 2017

BRYAN CAVE LLP

Julie E. Patterson

Alisha Ansari

By: /s/ Julie E. Patterson

Julie E. Patterson

Attorneys for Defendant

NPL CONSTRUCTION CO.

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~~[PROPOSED]~~ ORDER

The Court, having reviewed and considered the Joint Stipulation to Remand, and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

1. This case shall be remanded to the State Court for further proceedings; and
2. Each party shall bear its own attorneys' fees and costs incurred in connection with the removal and remand of this action.

IT IS SO ORDERED.

Dated: March 13, 2017

/s/

HONORABLE FERNANDO M. OLGUIN
U.S. DISTRICT COURT JUDGE

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